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this Memorandum Decision shall not be  
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any court except for the purpose of  
establishing the defense of res judicata,  
collateral estoppel, or the law of the case.

ATTORNEYS FOR APPELLANT:

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**IN THE  
COURT OF APPEALS OF INDIANA**

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NORMAN J. MILTON,	)	
	)	
Appellant-Defendant,	)	
	)	
vs.	)	No. 49A04-0608-CR-449
	)	
STATE OF INDIANA,	)	
	)	
Appellee-Plaintiff.	)	

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APPEAL FROM THE MARION SUPERIOR COURT  
The Honorable Danielle Gaughan, Commissioner  
Cause No. 49G16-0604-CM-74269

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**April 11, 2007**

**MEMORANDUM DECISION - NOT FOR PUBLICATION**

**BAILEY, Judge**

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<sup>1</sup> Marshelle Dawkins Broadwell filed a petition to withdraw her appearance, which was granted on February 20, 2007.

## **Case Summary**

Appellant-Defendant Norman J. Milton (“Milton”) appeals his conviction for Battery, a Class A misdemeanor.<sup>2</sup> We affirm.

## **Issue**

Milton presents for review the sole issue of whether the State presented insufficient evidence to support his conviction because the testimony of the victim was incredible and uncorroborated by medical records.

## **Facts and Procedural History**

During 2006, Gretchen Kinsey (“Kinsey”) and Milton dated for about three months. On April 17, 2006, at approximately 2:30 a.m., Kinsey was awakened when Milton threw liquid in her face. The pair began to argue, and Milton struck Kinsey. Kinsey summoned police and an ambulance. Milton was arrested and charged with Battery and Domestic Battery.<sup>3</sup>

On June 21, 2006, the State successfully moved to dismiss the Domestic Battery charge, and Milton was tried before the bench on the remaining charge of Battery. He was convicted and sentenced to 365 days imprisonment, with 351 days suspended. He now appeals.

## **Discussion and Decision**

Milton claims that the State presented insufficient evidence to support his conviction of Battery because Kinsey offered “implausible” testimony. Appellant’s Br. at 1. To obtain

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<sup>2</sup> Ind. Code § 35-42-2-1.

a conviction for Battery, a Class A misdemeanor, as charged, the State was required to prove that Milton knowingly or intentionally touched Kinsey in a rude, insolent or angry manner, resulting in pain to Kinsey. Ind. Code § 35-42-2-1.

In reviewing a sufficiency of the evidence claim, this Court neither reweighs the evidence nor assesses the credibility of the witnesses. Love v. State, 761 N.E.2d 806, 810 (Ind. 2002). We look only to the evidence most favorable to the judgment and reasonable inferences drawn therefrom. Id. We must affirm a conviction if the finder-of-fact heard evidence of probative value from which it could have inferred the defendant's guilt beyond a reasonable doubt. Graham v. State, 713 N.E.2d 309, 311 (Ind. Ct. App. 1999), trans. denied.

Kinsey testified that Milton awakened her from sleep by throwing liquid on her, an argument ensued, and Milton struck her. Kinsey testified further, "He just slapped me with his hand and I fell straight back onto the floor and blacked-out for like twenty seconds. And I woke up or I got up and noticed that liquid was leaking out of my ears." (Tr. 10.) She testified that she was "in a lot of pain" and sought treatment at the hospital after summoning the police. (Tr. 10.) She returned to the hospital a second time about five hours later because her pain worsened.

Milton contends that Kinsey's testimony lacks credibility and should be discarded because she did not recall an argument provoking the incident, she reported an inordinate amount of pain and medical visits based on a single slap, and her medical records were not introduced into evidence. In general, the uncorroborated testimony of one victim is sufficient to sustain a conviction. Holeton v. State, 853 N.E.2d 539, 541 (Ind. Ct. App. 2006).

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<sup>3</sup> Ind. Code § 35-42-2-1.3.

We do not impinge upon the factfinder's responsibility to judge the credibility of a witness absent circumstances supporting application of the "incredible dubiousity rule." See id. Application of the rule is limited to cases where a sole witness provides inherently contradictory testimony that is equivocal or coerced, and no circumstantial evidence supports the defendant's guilt. Berry v. State, 703 N.E.2d 154, 160 (Ind. 1998). Kinsey did not provide testimony that was inherently contradictory, equivocal or coerced. Milton simply asks this Court to negatively assess Kinsey's credibility absent the exceptional circumstances required to support the application of the incredible dubiousity rule. This we cannot do. Sufficient evidence of probative value supports the Battery conviction.

Affirmed.

SHARPNACK, J., and MAY, J., concur.